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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/2007
 LAST UPDATED 2/21/2007 **HB** _____

SPONSOR Leavell

SHORT TITLE Ownership Proof of Oil and Gas Equipment **SB** 1024/aSCORC

ANALYST Schuss

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General’s Office (AGO)

Energy, Mineral and Natural Resources Department (EMNRD)

Administrative Office of the District Attorney (AODA)

SUMMARY

Synopsis of SCORC Amendment

The amendment proposed by the Senate Corporations and Transportation Committee redefines “acquisition” or “acquire” to exclude lawful repossession, foreclosure or salvage pursuant to Subsection D of Section 70-2-38 NMSA 1978.

Synopsis of Original Bill

Senate Bill 1024 enacts the “Oil and Gas Equipment Sales Act” in the Criminal Code. The new act prohibits the sale or acquisition of equipment used in the exploration, production, or transportation of oil and gas except by bill of sale or other proof of ownership. The new act requires that the buyer be given a proof of ownership at the time of acquisition, and that the seller and the buyer each retain a copy of the proof of ownership for their records for a minimum of five years. The new act sets forth information which must be included in a proof of ownership. A proof of ownership must be available for inspection by the Attorney General or any law enforcement agency at all reasonable times.

The new act also prohibits tampering with identification numbers or markings on oil and gas equipment.

Criminal penalties are imposed for violations of the provisions of the new act and for intentionally interfering with an inspection pursuant to the act. The penalties range from petty misdemeanors when the value of the oil or gas equipment is \$100 or less, up to a second degree felony when the value is over \$20,000.

The attorney general or a district attorney may petition the district court to enjoin a buyer or seller from engaging in business until it complies with the requirements the court deems necessary to prevent violations of the new act.

FISCAL IMPLICATIONS

EMNRD notes that of this bill prevents contractors from selling equipment for salvage that are hired by the state to plug abandoned wells then state costs to plug wells may go up.

EMNRD's explanation of this potential impact is as follows:

SB 1024 may indirectly affect the Oil Conservation Division (OCD), the state entity responsible for plugging abandoned wells. By statute, “[a] contractor employed by the OCD of the Energy, Minerals and Natural Resources Department to plug a well is authorized to sell for salvage the equipment and material that is removed from the well in plugging it.” NMSA 1978, Section 70-2-38(D). As written, the act applies to any “lawful acquisition of oil and gas equipment,” and could be construed to require a contractor acquiring and then selling salvaged materials to obtain proof of ownership when acquiring the salvaged materials. It is unclear what procedure would be available to a contractor to obtain such “proof of ownership” in those circumstances, or if the act would prohibit the practice altogether.

If the OCD is required to provide some documentation regarding the authority of the contractor to sell the materials, the act will place an additional administrative burden on the OCD.

If contractors will not be able to sell salvaged material because they cannot provide proof of ownership as described in the act, they will factor in that lost revenue when entering into contracts with the state to plug wells.

SIGNIFICANT ISSUES

According to AODA, to currently bring about a just and successful criminal prosecution for the type of misconduct covered by this legislation, law enforcement and prosecutors would need to proceed under the far more general larceny, fraud, embezzlement (conversion to one's benefit of something entrusted to one) or tampering with evidence statutes, depending on the facts alleged.

The proposed legislation would give law enforcement and prosecutors a much more specific tool to combat the problems of theft, fraud, and embezzlement of oil and gas equipment by requiring a proper paper trail for any conveyances of such equipment, requiring that paper trail be maintained for five (5) years at least, prohibiting people from intentionally rendering serial numbers unusable, and ensuring a system of records inspection. In addition, it provides a civil

remedy in the form of injunctive relief.

ADMINISTRATIVE IMPLICATIONS

The AGO states that the inspection and enforcement of provisions contained in this bill will require the attorney general to devote staff time and resources.

BS/nt